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Programme element V.2: Contribution to consensus-building towards the further implementation of the Forest Principles

Options for follow-up to the work of the Intergovernmental Panel on Forests in relation to Programme Element V.2

Report of the Secretary-General

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I. INTRODUCTION

1. The Commission on Sustainable Development, at its third session, defined the terms of reference of programme element V.2 of the intergovernmental Panel on Forests as follows: "In the light of issues (programme elements) I-V.1, based on consensus-building in a step-by-step process, consider and advise on the need, or otherwise, for other instruments or arrangements in further implementation of the Forest Principles, including appropriate legal arrangements and mechanisms covering all types of forests."

2. At its third session (Geneva, 9-20 September 1996) the Panel held an initial discussion only of programme element V.2, which, in accordance with its programme of work, was to be subject to substantive discussion during its fourth session. The following preliminary proposals were made by individual delegations and groups in connection with programme element V.2:

(a) *At the intergovernmental level:*

(i) *Establish a high-level forum for policy coordination and dialogue on all types of forests;*

(ii) *Continue the Intergovernmental Panel on Forests;*

(iii) *Continue the Intergovernmental Panel on Forests until the year 2000 but with a more focused mandate;*

(iv) *Establish a mechanism similar to the Intergovernmental Panel on Forests with a redefined mandate;*

(v) *Strengthen the Committee on Forestry of the Food and Agriculture Organization of the United Nations (FAO);*

(b) *At the inter-agency level:*

(i) *Continue the informal high-level Inter-agency Task Force on Forests;*

(ii) *Transform the secretariat of the Intergovernmental Panel on Forests into a more formal arrangement;*

(iii) *Merge the forest functions of existing institutions, such as FAO, the United Nations Environment Programme (UNEP) and the United Nations Development Programme (UNDP), into a new institution;*

(c) *Legal mechanisms:*

(i) *Improve the coordination and implementation of existing legal instruments;*

(ii) *Establish a forum of existing institutions that will keep under review the necessity for a legal mechanism, while dealing with the main forest issues in a holistic and integrated manner;*

/...

(iii) Initiate negotiations for a convention based on the Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (Forest Principles) and other forest-related provisions of Agenda 21;

(iv) Initiate negotiations for a convention covering all questions necessary to ensure the sustainable management of all types of forests;

(v) Initiate negotiations for a framework convention to provide a holistic approach to the sustainable management of forests, facilitate the coordination and implementation of existing programmes and instruments, and foster the negotiation of regional instruments;

(vi) Initiate negotiations for a convention to provide a holistic approach to the sustainable management of forests, and facilitate the coordination and implementation of existing programmes and instruments;

(vii) Initiate the consideration of possible elements of such a convention;

(viii) Initiate negotiations for a convention on forest product trade, covering all types of forests;

(ix) Combine options (c) (iii)-(vi) above;

(x) Establish a forum that will keep under review the necessity for a legal mechanism, while dealing with the main forest issues in a holistic and integrated manner;

(xi) Establish a technical group of legal experts to formulate proposals for a legal mechanism in an agreed time-frame and on the basis of a step-by-step approach for the forum suggested above;

(xii) Explore the feasibility of voluntary codes of conduct for forest owners and investors.

3. The Panel felt that a number of the above-mentioned proposals were interrelated. However, none of those preliminary proposals were discussed during its third session, and the Panel decided to consider them along with any other proposals during the substantive discussion of programme element V.2 scheduled to take place during its fourth session. The Panel also requested the informal high-level Inter-agency Task Force on Forests to prepare for its consideration proposals for possible inter-agency and secretariat arrangements to support the work of an intergovernmental policy forum, and requested the Secretariat to provide information on the possible organizational modalities of the functioning of such a forum, including financial implications.

4. In addition, the Panel felt that in the context of its consideration of programme element V.1, further information and study of the international organizations, multilateral institutions and legal instruments relevant to

forests, their mandates, and their progress in and capacity for implementing the forest-related outcomes of the United Nations Conference on Environment and Development (UNCED) would be needed in order to achieve a more accurate diagnosis and to formulate proposals for action. A number of delegations felt that since many of the issues were closely interrelated, any conclusions and proposals for action formulated under programme element V.1 would need to take into account the conclusions and proposals for action formulated under programme element V.2 at the fourth session of the Panel. Accordingly, the Panel requested the Task Force to prepare relevant proposals.

5. Detailed information on current and planned forest-related activities of international organizations, including activities that are related to specific recommendations being discussed by the Panel, together with some proposals on ways and means of enhancing coordination, avoiding duplication and filling gaps, are before the Panel in the report of the Secretary-General on programme element V.1 (E/CN.17/IPF/4).

6. The purpose of the present report is to further elaborate the various institutional options proposed at the third session of the Panel with a view to facilitating further discussion and presenting for the consideration of the Panel proposals on possible inter-agency and secretariat arrangements to follow up its work, including possible organizational modalities for further international dialogue and decision-making on forests.

7. Since many of the issues and options for action relevant to programme element V.2 fall under the direct competence of member States and intergovernmental bodies, the role of the secretariats of the organizations of the United Nations system is largely limited to facilitating relevant discussions. Accordingly, the Task Force has attempted to describe options rather than suggest a single course of action.

II. OPTIONS FOR ACTION

A. Intergovernmental level

8. Analysis of proposals made by various delegations during Panel meetings suggests broad if not universal agreement on the need for a high-level intergovernmental forum for policy coordination and dialogue on all types of forests.

9. Furthermore, the discussion during the third session of the Panel suggested that as a follow-up to the Panel the following functions, which might need to be carried out at the intergovernmental level, could be assigned to such a policy forum:

(a) Provide high-level policy guidance and promote consistency and coherence in the approaches and activities of countries and international institutions aimed at the implementation of the Forest Principles, the forest-related provisions of Agenda 21, the outcome of the Intergovernmental Panel on Forests, and other intergovernmental decisions and initiatives on forests;

(b) Identify international priorities on forest-related issues, including both funding priorities and forest research and assessment priorities;

(c) Facilitate further international dialogue and consensus-building on forest-related issues, and identify emerging issues that require international attention;

(d) Exchange and analyse information and experiences on matters related to the sustainable management of all types of forests;

(e) Promote dialogue and partnership on forests with major groups, particularly non-governmental organizations and the private sector.

10. The Task Force agrees that in addition to the functions described above, it will be essential for such a policy forum to promote an enabling environment for assisting countries, particularly developing countries, in implementing their national forest plans or similar programmes.

11. The Task Force feels that it will be important for the Panel at its fourth session to define the functions of such a policy forum, at least in broad terms, before deciding on the modalities of its operation and its place in the system of United Nations institutions.

12. The Task Force feels that the various specific options suggested by Governments during the third session of the Panel could be clustered under two alternate approaches, as set out below.

Establishing a policy forum under the auspices of the Commission on Sustainable Development

13. This could be done by either:

(a) Establishing a subsidiary organ of the Commission to deal with forest issues (i.e., an arrangement similar to that of the Panel, or establishing a subcommission), which would meet inter-sessionally and report to the plenary of the Commission and/or its high-level segment;

(b) Integrating the policy discussion on forests in the agenda of Commission sessions and/or of its high-level segments, without establishing a subsidiary organ of the Commission to deal specifically with forest issues. Consequently, the Commission itself would act as a policy forum on forests in relation to sustainable development.

14. The Task Force feels that although the option outlined in paragraph 13 (b) above might be more cost-effective in terms of meetings servicing,[1] it would cause forest issues to lose the visibility on the international sustainable development agenda that is currently being achieved through the Panel process.

Establishing a policy forum under the auspices of an institution other than the Commission, i.e., strengthening the FAO Committee on Forestry

15. This could be done by:

(a) The Panel recommending that the FAO Council revise the mandate of the Committee on Forestry to accommodate the intergovernmental functions to be agreed by the Panel (see para. 8 above), and perhaps, that it consider the frequency of Committee on Forestry meetings in the light of such additional functions;

or

(b) Organizing meetings at the ministerial level, in conjunction with future meetings of the FAO Committee on Forestry, to provide relevant policy guidance.[2]

* * *

16. The Task Force feels that in formulating its recommendation on the possible format and placement of a policy forum, the Panel should also discuss whether the forum should be an ad hoc time-bound arrangement or a more permanent one.

17. As to substantive secretariat support for a policy forum, the Panel feels that that decision should take into account both (a) specific functions to be carried out at the intergovernmental level that would need to be supported, and (b) the logistical modalities of the functioning of a policy forum.

18. The Task Force agrees that the secretariat support structure established for the Panel, i.e., an ad hoc secretariat largely staffed through inter-agency secondments, has in general provided a good framework for its work, both in terms of mobilizing support for and coordinating inputs to the Panel process from international institutions and other partners, including non-governmental organizations, and in terms of supporting a policy debate in the Panel. It has also ensured collective ownership of the Panel process.

19. However, the secretariat support structure of the Panel depends on extrabudgetary resources, which makes it somewhat unsustainable as a longer-term solution.[3] The Task Force feels that if the Panel agrees on the need for special secretariat arrangements to provide substantive support to a future policy forum, it should:

(a) Appeal to the relevant budgetary or governing bodies of the United Nations and other organizations to include appropriate provisions in their budgets;

and/or

(b) Secure further extrabudgetary funding, perhaps by recommending the establishment of a trust fund from which, inter alia, international organizations might be compensated for their contributions, including the secondment of their staff.

20. As to the location of such a seconded secretariat, it could be established either at New York or at Rome.

B. Inter-agency level

21. During the third session of the Panel, a number of delegations called for the continuation of the inter-agency arrangements that had been established to support the Panel in order to provide support for the functioning of the proposed policy forum, as well as for other work to follow up the outcome of the Panel.

22. The Task Force was established specifically in support of the Panel process, and has acted as an informal, flexible mechanism for the coordination, cooperation and mobilization of support, with, inter alia, an outreach beyond the United Nations system. In the view of all participating agencies, the Task Force has worked well to date in providing the Panel with the research and analysis needed for its debates and consensus-building through its lead-agency approach. However, for most agencies, in addition to seconding staff, their work in support of the Panel has involved undertaking unprogrammed work on an ad hoc basis. In other cases, the establishment of new functions or seeking outside support to produce the necessary analysis has been required.

23. The Task Force, at its meeting in Rome on 17 and 18 October 1996, which was organized as part of preparations for the fourth session of the Panel, had a preliminary discussion on the desirability of its continuation after the conclusion of the Panel. Members of the Task Force feel that any final decisions on the continuation of its functioning and modalities for its operation can be taken only after the Panel's final outcome is known, since that outcome will have a bearing on both the arrangements for future inter-agency collaboration and coordination in the implementation of forest-related decisions, as well as on future policy discussion that might need to be supported by international institutions.

24. However, in a preliminary way, members of the Task Force generally felt that, regardless of the final decision on a future policy forum, the Task Force should continue its functioning after the Panel finalizes its work since further inter-agency work would need to be undertaken in order to ensure effective and coordinated follow-up in terms of implementation of the Panel outcome.

25. Furthermore, based on the effectiveness of its experience to date, the Task Force members feel that if the Task Force is to continue it would be important to maintain the informal nature of this arrangement, and that in the future it could meet on an ad hoc basis, and perhaps mainly on the margins of other meetings. It is also suggested that depending on its future work programme, the Task Force may need to involve representatives of other institutions.

C. Legal mechanisms

26. The ITFF Task Force wishes to emphasize that decisions on this particular matter are the exclusive competence of Governments and intergovernmental bodies.

The role of the United Nations Secretariat and/or secretariats of international organizations is to provide a forum for intergovernmental consensus-building, and - as required - to provide technical and substantive secretariat support to relevant negotiations.

27. Within the United Nations system, some arrangements already exist for coordination of work between the secretariats of various conventions and legal instruments. For example, periodic meetings of representatives of relevant secretariats are held under the auspices of UNEP, as the coordinator of work carried out under international legal arrangements in the field of the environment (see para. 38.22 (h) of Agenda 21).

28. As to the options proposed during the third session of the Panel, the Task Force feels that they could be broadly clustered under three alternative courses of action, as set out below.

Improving the coordination of existing international legal instruments that deal with specific issues on the forest agenda, and - if needed - supplementing those instruments with additional arrangements (either self-standing or as protocols to existing conventions/agreements) with a view to covering gaps (see preliminary proposals in para. 2 (c) (viii) and (xii) above)

29. In practice, this option would imply the formulation of specific recommendations by the Panel (or successor arrangements) to the conferences of the parties to existing legal instruments on the desirable course of action and/or recommendations to appropriate policy-making bodies in the United Nations system for launching negotiations on additional sectoral instruments.

30. In the view of the Task Force, the main challenge here would be to ensure policy coordination between the various conferences of the parties and other treaty bodies, and coherence in their approaches. That might prove to be a very difficult task, particularly since no international forum, including the General Assembly, has direct authority over such bodies. Such a situation might lead to the need for an "umbrella" legally binding instrument, whose conference of the parties would have at least equal authority within the system of international treaty bodies. That would ensure that parties to such an umbrella instrument would be legally obliged to take consistent positions and actions in the conferences of the parties to different instruments that are otherwise not formally related.

Initiating negotiations on a global legally binding instrument on the management, conservation and sustainable development of all types of forests (see preliminary proposals in para. 2 (c) (iii), (iv), (v), (vi) and (ix) above)

31. In practice, this option would imply that the Panel recommend, through the Commission on Sustainable Development, that the General Assembly (at either its special session to be held in 1997 or its fifty-second session) establish an intergovernmental negotiating committee entrusted with the task of agreeing, over a given time-frame, on the text of such a new legal instrument.

32. The Task Force feels that the variety of views among the countries who generally support such an approach are largely related to the possible title of

such an instrument, its format (i.e., whether it should be a framework instrument that could subsequently be supplemented with protocols dealing with more specific issues, or should be a more comprehensive one from the outset, and whether such a global instrument should include or be supplemented with regional instruments. Such details, in principle, could be clarified and agreed upon in the course of the work of an intergovernmental negotiating committee.[4]

Deferring any specific decision to a later date, and meanwhile keeping the matter under intergovernmental review (see preliminary proposals in para. 2 (c) (ii), (vii), (x) and (xi) above)

33. In practice, this option would imply that the Panel agree on the possibility of an eventual new legal instrument (or instruments) on forests but recommend that any specific action be postponed until broader consensus is reached on the overall objectives, scope, format and basic elements of such a legal instrument (or instruments).

34. As to an intergovernmental forum to keep the matter under review, the Task Force feels that such a function could be entrusted to a policy forum, as discussed in section II A above (see especially para. 9 (a) and (c)).

35. The Task Force also notes the proposal, made by some delegations at the third session of the Panel, to establish a technical group of experts to formulate proposals for a legal instrument in an agreed time-frame and on the basis of a step-by-step approach (see para. 2 (c) (xi) above). The Task Force feels that such a group of experts could, in principle, become a useful tool for supporting future policy debate on this issue with technical expertise. However, its establishment is likely to have additional financial implications in terms of meetings servicing and the travel expenses of experts.

Notes

[4] Both the agenda and programme of work of the functional commissions of the Economic and Social Council and their recommendations on the establishment of inter-sessional subsidiary bodies require the formal approval of the Council. Setting up an inter-sessional subsidiary body would also probably require the approval of the General Assembly (through the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee) since it might have financial implications for the United Nations regular budget. Unless decided otherwise, the membership of the subsidiary body is the same as that of the parent body, i.e., in the case of a subsidiary body of the Commission on Sustainable Development, 53 countries elected from among the Member States of the United Nations and members of the organizations of the United Nations system. In accordance with standard United Nations regulations, travel of one representative of a member country is covered from the regular budget. However, no daily subsistence allowance is paid unless the body consists of experts acting in their personal capacity. Approximate direct cost implications of establishing a subsidiary of the Commission could be about $150,000 per meeting. Additional funds might also be needed if such a subsidiary body meets when no regular conference services are available. In that case, potential implications for conference services could be about $50,000 per week (two meetings per

working day). In that context, one should note that in addition to regular budget costs for conference servicing of Panel sessions, an additional $110,000 of extrabudgetary funds were provided by donor countries to support the participation of the least developed countries that are not members of the Commission, as well as an additional $130,000 for the extension of and simultaneous meetings during the third session of the Panel. The estimates outlined above are related only to holding meetings and exclude costs related to the functioning of the secretariat, inter-agency support and other preparations for substantive discussions, such as consultancies and expert group meetings (see also footnote 3).

[2] The estimated cost would be US $180,000 for five days of meetings in Rome, including preparation/sending of documentation and interpretation in the six official United Nations languages.

[3] In establishing the Panel, the Commission on Sustainable Development decided that its operation, as well as the functioning of its secretariat, would be based mainly on contributions from agencies and extrabudgetary resources to be provided by countries and organizations. The Commission also encouraged countries and organizations to organize inter-sessional meetings and activities in support of its work programme. The experience in providing support to the Panel shows that the following direct costs were involved in funding the functioning of the secretariat and the Task Force: $1,300,000 were provided by countries and organizations as voluntary extrabudgetary contributions, including the hiring of the Coordinator and his secondment from ITTO; $800,000 were provided/mobilized by United Nations agencies in connection with the secondment of their staff. In addition, agencies had to redirect or overstretch their staff resources or hire consultants to prepare analytical reports for the Panel. Furthermore, approximately $7,000,000 (not channelled through the United Nations) was mobilized by countries and organizations to organize inter-sessional meetings and other activities in relation to preparation of reports, studies and other inputs to the Panel process.

[4] For example, the format of the United Nations Framework Convention on Climate Change was not predetermined by the General Assembly in 1990 when the Assembly launched the negotiations on that Convention, and it evolved considerably in the course of deliberations in the Intergovernmental Negotiating Committee. A similar situation occurred in the course of the work of the Intergovernmental Negotiating Committee for the Elaboration of a Convention to Combat Desertification in those Countries experiencing Drought and/or Desertification, particularly in Africa.